

MARK SCHAUER  
7TH DISTRICT, MICHIGAN

COMMITTEES:  
AGRICULTURE

TRANSPORTATION AND INFRASTRUCTURE

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2207**

September 1, 2010

SUBCOMMITTEES:  
CONSERVATION, CREDIT, ENERGY, AND RESEARCH

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AVIATION  
HIGHWAYS AND TRANSIT - VICE CHAIR  
RAILROADS, PIPELINES AND  
HAZARDOUS MATERIALS

The Honorable Mike Cox  
Attorney General  
State of Michigan  
G. Mennen Williams Building, 7th Floor  
525 West Ottawa St.  
P.O. Box 30212  
Lansing, MI 48909

Dear Attorney General Cox:

I write to request that you open an inquiry into whether Enbridge, Inc. or its employees, agents, partners, directors, officers, or affiliated companies have coerced individuals under duress as a result of the recent pipeline oil spill in Marshall, Michigan, to sign releases of settlement and authorizations for release of medical records.

In the course of our oversight of the Enbridge oil spill in Michigan, the Committee on Transportation and Infrastructure has uncovered documents that appear to show Enbridge has asked individuals impacted by the oil spill to sign overly-broad and inappropriate releases in return for air purifiers, air conditioners, and for reimbursement for other expenses. The document "discharges Enbridge, its employees, agents, partners, directors, and officers and affiliated companies and their agents, partners, directors, and officers, from and against all liability, claims, actions, causes of action, costs, and expenses, including without limitation claims for personal injuries, property damage, that [the signer] ever had, has, or may have against Enbridge, whether known or unknown related to the incident."

The State of Michigan has the second highest unemployment rate in the United States, and many residents in the area that have been coerced by Enbridge to sign this release are either unemployed or located in very low-income areas. Many of these residents have stated that they felt pressured to sign the release in return for air purifiers that they were led to believe would protect them from the health effects of Benzene and other volatile hydrocarbons released in the air as a result of the spill, and for air conditioners, and reimbursement for hotel and other expenses as a result of the evacuation. Other residents were urged to sign the release upon submittal of their claim forms to Enbridge at the claims centers. Many of them have reported to the Committee that they had no idea what they were signing. I believe that these circumstances surrounding these forms raise serious questions about whether they were signed under duress or are unconscionable and unenforceable under state law.

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I am equally distressed by Committee staff findings regarding Enbridge's efforts to urge residents who have experienced health effects from the oil spill to sign overly-broad authorization forms for release of medical records.

Public health officials have urged citizens who have experienced health effects from the oil spill to seek medical care from their doctors. If residents do not have health insurance and they would like to talk with a doctor about their health related to the oil spill, they are instructed to call a 1-800 number, which connects to an Enbridge call center, or visit a claims center, for a referral to the family health center.

It appears from documents obtained by the Committee that Enbridge requests that concerned individuals complete an Authorization for Care, which provides the actual referral, and a medical release form entitled "Authorization for Release of Medical Records Pursuant to 45 CFR 164.508 (HIPAA)". The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects the privacy and security of health information and provides individuals with certain rights with respect to their health information. Health care providers (e.g., doctors, clinics, nursing homes), health plans, and health care clearinghouses are required to comply with the law.

Enbridge's medical release form, which several residents impacted by the spill have signed, or have been urged to sign, authorizes the disclosure and release of all medical information, including medical information unrelated to the oil spill, to any representative of Enbridge Energy Partners of Houston, Texas. Specifically, the form authorizes the release of "any and all inpatient admissions, all ER visits, outpatient clinic notes, diagnostic testing, radiology films, consults, doctors orders, progress notes, nurses notes, laboratory testing, social service records, reports, correspondence, consultations, memoranda, treatment plans, admission records, discharge summaries, medical summaries, diagnoses, and/or any writing of any kind ... [including] drug and alcohol records, communicable disease, HIV and AIDS records, and mental health records (not including psychotherapy notes)" to Enbridge. The form authorizes the release of any of these records for a period of one year from the date signed, or the date a claim has been legally concluded, to any representative of Enbridge Energy Partners, L.P., of Houston, Texas.

The form further authorizes health care providers to meet with and discuss the residents' medical and/or psychological condition or treatment with Enbridge representatives. Specifically, the form authorizes "any health care provider to release any and all tests, reports, notes (excluding psychotherapy notes) and all other information concerning my medical and/or psychological conditions and/or treatment and to meet with, discuss and/or to correspond and report directly to Enbridge or any representative(s) Enbridge may designate to discuss [their] medical and/or psychological condition(s) or treatment."

Committee on Transportation and Infrastructure Chairman James L. Oberstar and I have sent the enclosed letter to Mr. Patrick D. Daniel, Enbridge's President and Chief Executive Officer,

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urging Enbridge to voluntarily rescind any and all settlement releases and any and all authorizations for release of medical records that have been signed pursuant to the oil spill in Marshall, Michigan.

I urge you to take immediate action on these matters.

Sincerely,

A handwritten signature in black ink, reading "Mark Schauer". The signature is written in a cursive, flowing style with a large initial "M".

Mark Schauer  
Member of Congress

Enclosure